UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:18-cv-00433-FDW

JORNELL EUGENE BESS,)
Petitioner,)))
vs.)
) ORDER
ERIK A. HOOKS, Secretary,)
N.C. Dept. of Public Safety, et al.,)
)
Respondents.)
)

THIS MATTER is before the Court on Respondents' Motion to Dismiss (Doc. No. 8), filed January 8, 2019. Following the filing of the instant motion, the Court issued a notice on January 9, 2019, advising Petitioner of his right to respond to the motion and warning that failure to respond could result in dismissal of the petition. (Doc. No. 9.) This Notice was mailed to Petitioner's address of record and returned undeliverable on January 25, 2019. (Doc. No. 10.) The Court notes that on December 14, 2018, another document sent from this Court to Petitioner's address of record was also returned as undeliverable. (Doc. No. 7.) Petitioner has failed to keep the Court apprised of his current address, failed to respond to the instant motion, and failed to otherwise take any action in prosecution of the allegations in his petition since August 2018.

Respondents move to dismiss this matter because Petitioner is no longer in custody or parole or post-conviction supervision and this case is therefore moot. Also, Respondents argue Petitioner admits he has not presented his claims to the state courts as required by 28 U.S.C. § 2254(b)(1)(A). Petitioner has failed to demonstrate the arguments set forth in Respondents' Motion and accompanying memorandum in support (Doc. No. 9) are without merit. The mail addressed

to Petitioner's address in custody and returned as undeliverable also supports Respondents' motion. Accordingly, for the reasons stated in Respondents' motion (Doc. No. 8) and supporting memorandum (Doc. No. 9), the motion to dismiss is GRANTED.

IT IS THEREFORE ORDERED that the Motion to Dismiss (Doc. No. 8) is GRANTED.

The Clerk is respectfully directed to close this case.

IT IS SO ORDERED.

Signed: September 23, 2019

Frank D. Whitney

Chief United States District Judge